

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

JAMES PRESTRIDGE,

Plaintiff,

v.

BRIAN WILLIAMS *et al.*,

Defendants.

Case No. 2:20-cv-00061-APG-BNW

**ORDER**

**I. DISCUSSION**

Plaintiff has filed a motion for an extension of time (ECF No. 14) and a motion for appointment of counsel and evidentiary hearing (ECF No. 15).

Plaintiff moves for an extension of time to file his third amended complaint from November 30, 2021, to January 30, 2022. (ECF No. 14 at 1). Plaintiff states that he needs an extension of time because of the holidays and because the law librarian never gave him a copy of the second amended complaint as ordered by the Court. (*Id.* at 1-2). Plaintiff also seeks an order directing the High Desert State Prison medical department to provide him copies of all the nurses' identification badges so he can identify everyone he spoke to about his injuries. (*Id.* at 4).

The Court grants the motion for an extension of time in part. Plaintiff will file a third amended complaint on or before Friday, January 28, 2022. If Plaintiff fails to file a third amended complaint by January 28, 2022, the Court will recommend dismissal of this action for failure to state a claim. (See ECF No. 13 at 11). The Court also directs the law librarian to provide Plaintiff with a complete copy of the second amended complaint. (See *id.*)

The Court denies the motion to have the medical department provide Plaintiff with copies of all the nurses' identification badges. Based on the motion, Plaintiff knows the first names of several nurses and their physical descriptions which he may use in his third amended complaint.

1 Like many prisoners who file civil-rights claims, Plaintiff asks the Court to find and  
 2 appoint a free lawyer. (ECF No. 15). Plaintiff asserts that he does not have access to  
 3 the law library, it takes a while to receive answers to his law library kites, and he needs  
 4 an attorney to investigate his medical claims. (*Id.*)

5 A litigant does not have a constitutional right to appointed counsel in 42 U.S.C. §  
 6 1983 civil-rights claims. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). The  
 7 statute that governs this type of litigation, 28 U.S.C. § 1915(e)(1), provides that “[t]he court  
 8 may request an attorney to represent any person unable to afford counsel.” However,  
 9 the court will appoint counsel for indigent civil litigants only in “exceptional circumstances.”  
 10 *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (§ 1983 action). “When determining  
 11 whether ‘exceptional circumstances’ exist, a court must consider ‘the likelihood of  
 12 success on the merits as well as the ability of the petitioner to articulate his claims pro se  
 13 in light of the complexity of the legal issues involved.” *Id.* “Neither of these considerations  
 14 is dispositive and instead must be viewed together.” *Id.*

15 The Court does not find exceptional circumstances here. Plaintiff has yet to state  
 16 any colorable claims and has only identified common circumstances. See *Baker v.*  
 17 *Macomber*, No. 2:15-CV-00248-TLN-AC, 2020 WL 1182495, at \*1 (E.D. Cal. Mar. 12,  
 18 2020) (finding that “[c]ircumstances common to most prisoners, such as lack of legal  
 19 education and limited law library access, do not establish exceptional circumstances that  
 20 warrant a request for voluntary assistance of counsel”). The Court denies the motion to  
 21 appoint counsel without prejudice.

## 22 II. CONCLUSION


23 **IT IS THEREFORE ORDERED** that the motion for an extension of time (ECF No.  
 24 14) is granted in part and denied in part. **Plaintiff will file his third amended complaint**  
 25 **on or before Friday, January 28, 2022.** If Plaintiff fails to file a third amended complaint  
 26 by that deadline, the Court will recommend dismissal of the action for failure to state a  
 27 claim.

28 **IT IS FURTHER ORDERED** that the Clerk of the Court will send Plaintiff a courtesy

1 copy of the second amended complaint (ECF No. 12). The prison law librarian is directed  
2 to provide Plaintiff with a complete copy of the second amended complaint.<sup>1</sup>

3 **IT IS FURTHER ORDERED** that the motion for appointment of counsel and  
4 evidentiary hearing (ECF No. 15) is denied without prejudice.

5  
6 DATED: December 8, 2021.

7   
8 BRENDA WEKSLER  
9 UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup> If Plaintiff does not receive a complete copy of the second amended complaint from the law librarian, he will notify the Court within 7 days from the date of this order.